

HOUSE No. 2133

By Mr. Koutoujian of Waltham, petition of Peter J. Koutoujian and Peter J. Larkin prohibiting the use of certain communication devices while operating motor vehicle. Transportation.

The Commonwealth of Massachusetts

PETITION OF:

Peter J. Koutoujian
Peter J. Larkin

Matthew C. Patrick
Martha M. Walz

In the Year Two Thousand and Five.

AN ACT PROHIBITING THE USE OF CERTAIN COMMUNICATION DEVICES WHILE OPERATING A MOTOR VEHICLE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 8 of chapter 90 of the General Laws, as
2 appearing in the 2000 Official Edition, is hereby amended by
3 inserting after the third paragraph the following paragraph:—
4 A person holding a junior operator's license shall not use a
5 mobile telephone while driving. For the purposes of this section, a
6 “mobile telephone” shall include, but not be limited to, a mobile
7 telephone utilizing cellular, analog, satellite, wireless or digital
8 telephone technology, and capable of sending or receiving tele-
9 phone communications. A violation of this section shall be pun-
10 ishable by a suspension of a junior operator's license for not more
11 than 1 year and fine of not more than \$100. It shall be an affirma-
12 tive defense for a junior operator to produce documentary or other
13 evidence that the telephone call that is the basis of the alleged vio-
14 lation was made for the sole purpose of seeking emergency assis-
15 tance. A violation of this paragraph shall not be considered as a
16 conviction of a moving violation of the motor vehicle laws for the
17 purpose of determining surcharges on motor vehicle premiums
18 pursuant to section 113 of chapter 175. An insurance company

19 doing business in the commonwealth shall not deny an individual
20 the right to purchase a motor vehicle liability policy based on a
21 violation of this paragraph.

1 SECTION 2. Said chapter 90 is hereby amended by inserting
2 after section 24P, as so appearing, the following section:—

3 Section 24Q. (a) For the purposes of this section, a “mobile
4 telephone” shall include, but not be limited to, a mobile telephone
5 utilizing cellular, analog, satellite, wireless or digital telephone
6 technology, and capable of sending or receiving telephone com-
7 munications.

8 (b) A person shall not operate a motor vehicle on a public way:

9 (1) while holding a mobile telephone in one or both hands or
10 with any other part of the body; or

11 (2) while using or operating a mobile telephone, unless the a
12 mobile telephone is affixed to the vehicle or is part of a fixture in
13 the vehicle and remains so affixed while being used or operated,
14 or is specially adapted or designed to be affixed to the driver as
15 headgear and is so used, to enable the driver to use or operate the
16 mobile telephone without holding it in the manner contemplated
17 in clause (1), and remains so affixed while being used or operated.

18 (c) This section shall not apply to the following persons oper-
19 ating motor vehicles in the execution of their duties:

20 (1) the driver of a fire-fighting vehicle;

21 (2) the driver of a rescue vehicle or an ambulance; or

22 (3) a state, county, or local public safety official, if operating
23 the vehicle with due regard to the safety of others.

24 (d) A violation of this section shall be punishable by a fine of
25 not more than \$250. A second and subsequent violation shall be
26 punished by a fine of not more than \$500.

27 (e) It shall be an affirmative defense for an operator to produce
28 documentary or other evidence that the phone call that represents
29 the alleged violation was made for the sole purpose of seeking
30 emergency assistance.

31 (f) A violation of this section shall not be considered as a con-
32 viction of a moving violation of the motor vehicle laws for the
33 purpose of determining surcharges on motor vehicle premiums

34 pursuant to section 113 of chapter 175. An insurance company
35 doing business in the commonwealth shall not deny an individual
36 the right to purchase a motor vehicle liability policy based on a
37 violation of this section.